

CWP No. 17362 of 1995 (O&M)

KUMAR MANOJ
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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No. 17362 of 1995 (O&M)

Date of Decision:-20.05.2015

Rajinder Singh and Ors

.....Petitioners

Versus

Superintending Canal Officer etc

.....Respondents.

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present:- None for the petitioner.

Mr. Suresh Singla, Addl.A.G, Punjab.

JASWANT SINGH, J.(ORAL)

C.M.No.6049 of 2015

Application is allowed.

Status report by way of affidavit dated 24.4.2015 of Sh. Rajiv Kumar Goel, Divisional Canal Officer, Sidhwan Canal Division, Ludhiana on behalf of respondent Nos.1 & 2 is taken on record.

Main case

Petitioners are the sons of two brothers, namely, Mangal Singh and Mehanga Singh. One of the sons of Mehanga Singh, namely Karnail Singh is respondent No.4. In their joint land, one of the co-sharers Mohan Singh son of Mehanga Singh sold his share in the joint land to one Gurmail Singh with possession of a parcel of land.

Applicants-petitioners moved an application before the Divisional Canal Officer, Sidhwan Canal Division, Ludhiana for restoration of a demolished water course situated in Rect.No.29, Killa No.19/2, 22, 23 with

the allegations that their brother Karnail Singh/respondent No.4 and Gurmail Singh had demolished the said stretch of the water course existing for the last 20 years.

On investigation, the Zildar reported that the water course at the site had indeed been demolished. However, Gurmail Singh managed that at the time of his purchase, even as per sale deed, there did not exist any water course as alleged. He, however, agreed to permit the water course to be re-built towards the Rectangle killa line of the land owned by him. Accordingly, the DCO, Sidhwan Canal Division, Ludhiana vide order dated 07.09.1995 (**P.3**) ordered that a khal/water course on the common wat of Rect.No.29//20/2, 21,22 is a suitable water course for the proper irrigation of the applicants and, therefore ordered the restoration at that site.

Aggrieved against the same, the applicant-petitioners filed an appeal before the Superintending Canal Officer, Sirhind Canal Circle, Ludhiana who vide order dated 17.10.1995 (**P.4**) upheld the order (**P-3**), hence the present writ petition was filed with the grievance of non-restoration at the original site.

This Court vide order dated 29.11.1995 while issuing notice of motion stayed the operation of the impugned **Annexures P.3 and P.4**.

The writ petition was admitted vide order dated 16.09.1997. During the course of hearing after admission, this Court had directed the respondent officials to file an affidavit to assert as to whether anything survived for adjudication in the present writ petition and a status report in this regard by way of affidavit dated 24.4.2015 of Sh. Rajiv Kumar Goel, Divisional Canal Officer, Sidhwan Canal Division, Ludhiana filed by way of application, which has been taken on record.

At the time of hearing today, said officer Sh. Rajiv Kumar Goel, who is present in Court, states that prior to the aforesaid order dated 29.11.1995 passed by this Court, as per the report dated 25.11.1995 of Zileadar, the water course/khal in terms of order **(P.3)** at the alternative site stood duly restored. He further states that at present some portion towards the end of the Khal, during the pendency of the writ petition appears to have been demolished, however, none of the share holders till date has made an application for restoration of the same.

None has appeared on behalf of the petitioners.

After hearing learned counsel for the respondents, it appears that the applicants and the respondents at the implemented water course were getting their due share of water for better irrigation of their land and, therefore the issue is dead and gone.

In view of the aforesaid circumstances, present writ petition is disposed of as having been rendered infructuous.

May 20, 2015
manoj

(JASWANT SINGH)
JUDGE